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| SBC Communications, Inc., SBC Delaware Inc., Ameritech Corporation, Illinois Bell Telephone Company d/b/a Ameritech Illinois, And Ameritech Illinois Metro, Inc. | ) | ICC Docket No. 98-0555 |
| Joint Application For Approval Of The Reorganization Of Illinois Bell Telephone Company d/b/a Ameritech Illinois, And The Reorganization Of Ameritech Illinois Metro, Inc. In Accordance With Section 7-204 Of The Public Utilities Act And For All Other Appropriate Relief. | ) | |

# NEIGHBORHOOD LEARNING NETWORKS' EXCEPTIONS TO PROPOSED ORDER

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April 14, 1999

**Synopsis:** The Hearing Examiners' Proposed Order substantially ignores the public interest, overlooks SBC/Ameritech's failure to show that the merger will not adversely affect underserved and increasingly technologically disadvantaged consumers and the state's economy generally, declines to order payment of merger savings currently and then unjustifiably gives up half the those savings to SBC, and misses the opportunity to impose conditions on the merger that could at least help protect competitive and consumer interests for the benefit of all Illinoisans.

## SUMMARY OF THE ARGUMENT

Neighborhood Learning Networks disagrees in fundamental ways with the Hearing Examiners' Proposed Order of March 29, 1999. The Order substantially ignores the public interest, overlooks SBC/Ameritech's failure to show that the merger will not adversely affect underserved and increasingly technologically disadvantaged consumers and the state's economy generally, declines to order estimation and payment of merger savings currently, and would have the Commission neglect its duty to impose meaningful competitive and consumer conditions on the merger. Specifically, the Proposed Order

- Takes an inappropriately narrow view of the Commission's authority to evaluate the merger, allocate savings, and impose conditions for the public convenience (HEPO 6-7, Order ¶ 5);
- Fails to hold SBC/Ameritech to its burden of showing that the merger will not diminish Ameritech's ability to serve residential consumers, especially those that are already underserved or the lamentably large number of Illinoisans that are not yet even connected (HEPO 10-12, Order ¶ 6);
- Fails to hold SBC/Ameritech to its burden of showing that the merger will not adversely affect competition (HEPO 41-3, Order ¶ 6);
- Fails to determine prospective merger savings calculated for an appropriate number of years, does not order SBC to pay them or any estimated amount currently, and does not properly allocate a portion of these savings to mitigate the merger's uneven economic effects, all to the detriment of Illinois' residential consumers (HEPO 63-6, Order ¶ 8);
- Misses the opportunity to condition any merger approval on Ameritech's attainment of TA '96's Section 271 competition checklist in Illinois, and on programs to ensure that the economic and social benefits of telecommunications advances are extended to all Illinoisans not just large businesses or persons living in priority service areas (HEPO 68-73; Order ¶¶ 7, 9).

## I. CONTRARY TO THE PROPOSED ORDER, THE MERGER MAY NOT BE APPROVED UNLESS THE COMMISSION CONCLUDES THAT IT SERVES THE PUBLIC CONVENIENCE

The Proposed Order takes a dangerously narrow view of the standards by which this merger should be judged. It dismisses the public convenience requirements of § 7-102 on the remarkable form-over-substance ground that the transaction "is between two holding companies and does not involve any public utility." (HEPO 6-7.) It recites SBC's position that the General Assembly's enacted telecommunications findings and policy are "prefatory" and "have no substantive effect" (based on two cases decided in different contexts and before the 1997 amendments to §§ 13-102 and 103), and appears to ignore these provisions, though it offers no analysis or conclusion pertaining to them. 220 ILCS 5/13-102 and 103. The Proposed Order, likewise, ignores almost completely NLN's testimony, briefs, and arguments that the merger will disproportionately disadvantage underserved residential and business customers.

As excerpted in NLN's Reply Brief (p. 5), "the General Assembly finds that . . . universally available and widely affordable telecommunications services are essential to the health, welfare and prosperity of all Illinois citizens." 220 ILCS 5/13-102. Based on this finding the General Assembly then "declares that it is the policy of the State of Illinois that . . . telecommunications services should be available to all Illinois citizens at just, reasonable, and affordable rates and that such services should be provided as widely and economically as possible in sufficient variety, quality, quantity and reliability to satisfy the public interest." 220 ILCS 5/13-103. These pronouncements should be central to the Commission's deliberations.

The Legislature's findings and policy define the broad public interest perspective that should underlie <u>all</u> Commission decisions concerning telecommunications. That public interest perspective is especially important here, given the far-reaching consequences of the relief requested. SBC/Ameritech's application is not for some technical adjustment to its corporate status or rate structure. It is about subjecting the ratepayers of the state's dominant telephone company to an uncertain, unprotected, and insufficiently competitive future--a postmerger future that is particularly troubling for those on the wrong side of the digital divide between technology "haves" and "have-nots."

By telecommunication services, the General Assembly refers not only to analog voice service but Internet access and the provision of other digital services that will form the core of the information economy in the next century. Thus § 13-303 states broadly that a "'[t]elecommunication service' means the provision or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of information, by means of electromagnetic, including light, transmission with or without benefit of any closed transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) used to provide such transmission and also includes access and interconnection arrangements and services." 220 ILCS 5/13-303. Telecommunications services thus include any service that permits the transmission of data over a digital network or that provides access to such a network.

The General Assembly's strong emphasis on and commitment to the public interest in the telecommunications arena is repeated in § 7-204(f) governing the reorganization of telecommunications carriers: "In approving any proposed reorganization pursuant to this Section the Commission may impose such terms, conditions or requirements as, in its judgment, are necessary to protect the interests of the public utility and its customers." As the courts of Illinois have recognized, the public interest and "the interests of the public utility and its customers" are one and the same. See Peoples Energy Corp. v. Illinois Commerce Com'n, 142 Ill.App.3d 917, 492 N.E.2d 551 (App. Ct. 1986)

Reading § 7-204(f) as empowering the Commission to condition mergers with any term or requirement that it judges necessary to protect the public interest as described in

NLN's testimony and briefs is also justified by Illinois' commitment to universal service. See 220 ILCS 5/13-301 and 301.1. If every person of the public is intended to be a customer of the utility that provides local telecommunications services within the state, then the interests of the utility's customers, and the public, are identical.

Conditioning the proposed merger in part on plans to address the digital divide is plainly in the public interest. Unless underserved and disadvantaged communities are soon provided access to and training in the use of digital networks and broadband services, these communities will only fall further behind and become disenfranchised from the emerging digital economy. Not only will these communities fail to become productive members of the new economy, but considerable public funds will be needed to address the problems that arise from our failure to bring them along. The most efficient way to remedy this situation is to allocate part of the savings from the merger to finance programs that will begin to close this digital divide without any cost to Illinois taxpayers.

There are, as well, specific statutory prescriptions not addressed by the Proposed Order or SBC that further mandate that up-to-date telecommunications services must be available to all Illinois businesses and residents. Section 7-204(b) states that "[t]he Commission shall not approve any proposed reorganization if the Commission finds, after notice and hearing, that the reorganization will adversely affect the utility's ability to perform its duties under this Act." 220 ILCS 5/7-204(b). One of the duties imposed by the Public Utilities Act is set forth in § 13-505.4(a), which requires that "[a] telecommunications carrier that offers or provides a noncompetitive service, service element, feature, or functionality on a separate, stand-alone basis to any customer shall provide that service, service element, feature, or functionality pursuant to tariff to all persons, including all telecommunications carriers and competitors, in accordance with the provisions of this Article." 220 ILCS 5/13-505.4(a).

Current telecommunications services include Internet access as well as telephone connections. The provision of high-speed broadband network access and services is clearly a telecommunications service under § 13-303. See 220 ILCS 5/13-303. Accordingly, if the proposed reorganized utility provides broadband network access and services to corporations and priority residential customers, then § 13-505.4(a) prescribes that it provide these same services to poor, underserved, and disadvantaged communities within the state. Although SBC says that it intends to provide high-speed broadband network access and services to certain customers, it offers no plan to provide such services to underserved and disadvantaged communities in Illinois, nor to make the necessary investments in infrastructure that would enable it to do so. As the merger is currently proposed, it will thereby adversely affect the utility's ability to perform its duties under this Act and cannot be approved.

In light of the express policies of the General Assembly and the duties that it has imposed on the Commission, it would be an egregious dereliction of duty and failure of judgment for the Commission not to evaluate the merger's impact on the public interest, and from that perspective, to condition its approval on using merger savings to help close the digital divide.

## II. THE PROPOSED ORDER FAILS TO HOLD SBC/AMERITECH TO ITS BURDEN OF SHOWING THAT THE MERGER WILL NOT DIMINISH AMERITECH'S ABILITY TO SERVE DISADVANTAGED MARKETS

The SBC/Ameritech arguments adopted in the Proposed Order are not sufficient because they are unsupported by proof that SBC will adequately serve the poor, disadvantaged and other underserved populations. SBC/Ameritech offers no evidence that the merger will not diminish Ameritech's "ability" to provide "adequate" service to underserved these groups. The stockholders of Ameritech will surely benefit. Top management will receive generous retirement packages. But there has been no showing that the average consumer--those with one phone line, no Internet use, and no cellular phone--will benefit from this merger. The merger as proposed will only further benefit the telecom "haves." It is not intended to help the telecom "have-nots."

The merger as proposed should be rejected or conditioned on the development of a comprehensive system of remedies that will protect the interests of average and low-income residential customers who need access and training in the use of advanced telecom services. There are no benefits or programs in the proposed merger for rural or inner city residents, the poor, the elderly, the less educated, or those not presently receiving telecom services. SBC/Ameritech has not met the statutory standard of showing that the merger will not diminish the utility's ability to serve the disadvantaged and underserved.

NLN's testimony and earlier briefs showed that there is a "digital divide" between the well educated and well off and the less educated and poor. This gap threatens future industry and commerce in Illinois, the quality of the work force, the future communications among Illinois citizens, and even the future of an informed constituency able to participate effectively in community affairs and government.

The October 1998 Report of the Metropolitan Planning Council on "The Digital Network Infrastructure and Metropolitan Chicago" described the connection between equity and economic development in this way:

> Equity and economic development are inseparable. There cannot be excluded groups that are disenfranchised by the economic, social, political, and technological shifts that are occurring. Poverty is highly place bound and, to use Graham's term, "information apartheid" will diminish our return.

Metropolitan Planning Council, "The Digital Network Infrastructure and Metropolitan Chicago" 13 (1998) (attached as an exhibit to the rebuttal testimony of Don S. Samuelson, December 18, 1998, and available at www.metroplanning.org).

Even the merger's proponents understand the public policy implications of technology "haves" and "have-nots" and places its resolution before the Commission. SBC's lead witness in the cross-examination phase of the hearing process, James Kahan, when asked a question concerning the importance of having telecom providers participate in mitigating the digital divide acknowledged the importance of this issue:

> **[T]hat's a public policy issue that the Commission - the ICC in Illinois should look at.** [I]t's a very valid concern. We clearly, if we're not careful, are going to end up with a society of people that have access to the information and those that don't. And that has very serious implications not just to the telecom industry. The implications to the telecom industry are very small compared to the implications overall. **But those are for policymakers to decide and evaluate, not for companies.** Testimony of James Kahan, January 25, 1999, at 447; emphasis added.

The ICC has both the authority and the duty to condition the proposed merger on a comprehensive plan to address the digital divide in Illinois, and to allocate savings from the proposed reorganization to fund the plan.

The ICC should reject the merger unless it insures that the utility's ability to serve the underprivileged and underserved sectors of the Illinois economy in the most cost-effective manner has not been diminished. See § 7-204(b)(1). To date, SBC/Ameritech has failed to satisfy the requirements of § 7-204 and has failed to provide the Commission with justification to make the findings required under § 7-204(b). SBC/Ameritech's briefs are filled with references to serving large business customers but contain only a few obscure allusions to universal service and plans to serve the disadvantaged and underserved. The Commission cannot compare the present Ameritech's ability with non-existent plans for the future and conclude other than that the new conglomerate will diminish the new utility's ability to serve these people.

The burden on all § 7-204(b) issues rests on SBC/Ameritech. Yet it has produced no evidence that there is a business plan demonstrating that the new utility will have the ability and interest to provide adequate service to the disadvantaged and underserved. Illinois already ranks at the bottom of the states in basic telephone service penetration. The Hearing Examiners cite no evidence that the reorganized SBC/Ameritech will improve on this deplorable record. They do not insist that SBC/Ameritech remedy this unacceptable situation. The Commission must not be so shortsighted.

In order for the Commission to find that the criteria in § 7-204(b) are met, there must be evidence in the record to support the findings. The absence of evidence to prove any one element under this subsection would require the Commission to reject SBC/Ameritech's application. Illinois Bell Telephone Co. v. Illinois Commerce Commission, 283 Ill. App. 3d 188, 669 N.E. 2d 919 (5th Dist. 1996). The burden is on SBC/Ameritech to prove the new utility's ability to provide adequate service to all customers. Under similar circumstances the Virginia Corporation Commission last month turned down the petition of Bell Atlantic and GTE to merge. "Petitioners simply have not provided evidence or information sufficient to show how they will assure the continuation of adequate service to the public at just and reasonable rates if they were allowed to combine." Joint Petition of Bell Atlantic Corp. and GTE Corp., Case No. PUA980031, pp. 17-18, available at www.state.va.us/scc/orders/case/a980031m.pdf. the ICC should likewise hold SBC/Ameritech to its proof before approving any merger.

## III. THE PROPOSED ORDER FAILS TO HOLD SBC/AMERITECH TO ITS BURDEN OF SHOWING THAT THE MERGER WILL NOT ADVERSELY AFFECT COMPETITION

The Proposed Order summarizes much of the evidence that the merger will be anticompetitive but nonetheless concludes that the merger is "not likely" to have a "significant" adverse effect on competition in Illinois. (HEPO 43.) It then refuses the urgings of Staff and many of the Intervenors, including NLN, to require SBC to satisfy Section 271's competition checklist for Illinois before any merger is approved. This is a mistake for the reasons given in NLN's Reply Brief (pp. 6-9). No merger should go forward without, at a minimum, credible and enforceable assurances that the Ameritech's local telephone market will promptly be opened to competition.

## IV. THE PROPOSED ORDER FAILS TO DETERMINE MERGER SAVINGS, REQUIRE THEIR PROMPT PAYMENT, OR PROPERLY ALLOCATE A PORTION OF THE SAVINGS TO REDUCE THE GAP BETWEEN TECHNOLOGY "HAVES" AND "HAVE NOTS"

Section 5/7-204(c) forbids the Commission from approving any merger before allocating the savings resulting from the reorganization. Acknowledging that this is the first major reorganization decision since the subsection (c) was amended in 1997, the Proposed Order only begins to fulfill the legislative mandate. (HEPO 50.)

The Proposed Order's savings discussion should be reworked in several major respects. First, the Commission should determine projected savings now and require that they be paid as a condition of the merger's approval. Implementing a savings provision similar to Illinois', the California Public Utility Commission calculated savings from the SBC/Pacific Telesis merger at $495 million. 1997 Cal. PUC LEXIS 629, *1 and *185-6 (1997). Especially with respect to the programs discussed in Part V on "Conditions," the time to act is now, not into the next century when SBC and Staff accountants and auditors have finished debating "actual" savings. Within a few years telephone traffic will move not only over an information superhighway but over a transaction and service highway, as well. Businesses and communities on the side of the road will simply be left behind--with state and local governments and their taxpayers left to care for those who remain unconnected.

Although the witnesses disagreed over methodology and conclusions, the Commission can estimate merger savings from SBC/Ameritech alone. SBC Chairman Edward Whitacre recently said publicly that SBC expects to save $1.2 billion annually from the Ameritech deal." "The last Monopolist," Business Week, p. 84 (April 12, 1999), attached as Exhibit A to this brief. SBC/Ameritech Ex. 3, Schedule 1, asserts that the share of Ameritech's business attributable to non-competitive local service in Illinois is 8.77%. The California PUC fixed the period of merger savings at 5.6 years. These figures combine to predict Illinois savings of approximately $100 million per year for five to six years, or a total of $500-$600 million.

Second, half of that $500-$600 million--$50 million per year for at least five years--should be allocated to programs that will mitigate the digital divide and strengthen the structure and performance of Illinois' economy. The benefits of such programs are described in NLN's testimony and briefs and they are again outlined in Part V. Substantial funds will undoubtedly be passed on to ratepayers as credits on their phone bills. But by itself, this use of the savings does not respond to the problems the merger is likely to pose for underserved communities. Additionally, phone credits offer none of the multiplier economic or social benefits achievable through market broadening programs. NLN thus advocates adoption of such programs in Illinois, models of which SBC has already been required to provide in California and Ohio. (NLN Reply 14-15.)

Third, SBC should not be rewarded with 50% of the net savings simply because it complies with the voluntary commitments it agreed were reasonable in its reply brief. (HEPO 73, Order ¶ 19.) The Hearing Examiners intimate that without this incentive SBC might not cooperate with the ICC. If this is true, and the SBC commitments are necessary to protect the interest of the utility and its customers, then the merger should be refused. Illinois ratepayers cannot fairly be asked to pay SBC for fulfilling conditions ordered by the Commission at SBC's suggestion.

We agree with the Hearing Examiners' starting point, which is that 100% of the Illinois merger savings for noncompetitive service should be allocated to consumers. This allocation would redirect only a small fraction of SBC's total expected savings, and Ameritech and SBC shareholders are already enjoying the fruits of large stock premiums and significantly higher stock prices.

If the Commission believes that further information on savings would enable it to make a more reasoned decision, it should direct SBC/Ameritech to supplement the record, including with information on savings obtained through its merger with Pacific Telesis, as well as the analysis that was the basis for its Chairman's estimate of Ameritech savings of $1.2 billion annually. If necessary, the Commission should extend its ruling date 90 days in order to facilitate a collaborative review of these issues as permitted by § 7-204(d).

## V. THE PROPOSED ORDER WOULD HAVE THE COMMISSION NEGLECT ITS DUTY TO IMPOSE MEANINGFUL COMPETITIVE AND CONSUMER CONDITIONS ON THE MERGER

The Hearing Examiners explain that the Commission has broad power to condition its approval on terms "necessary to protect the interests of the public utility and its customers." (HEPO 69-70, 220 ILCS § 5/7-204(f).) Surprisingly, however, they propose virtually no conditions other than those suggested by SBC/Ameritech, themselves. (HEPO 70-2.)

As discussed in Part III, if the Commission decides to approve the merger, one condition necessary to safeguard competition is to require SBC/Ameritech to satisfy the 1996 Telecommunications Act's Section 271 competition checklist. The Commission should also condition the merger on a set of structural initiatives designed to reduce the negative effects of the merger on undeserved markets. These initiatives, discussed in NLN's testimony and briefs (NLN Reply 13-20), would be created and managed through an Illinois Community Technology Fund. They would fall into four main categories: (1) preparing and aggregating the market; (2) funding public technology initiatives; (3) funding community technology centers; and (4) creating a company to commercialize public technology initiatives.

**Preparing and Aggregating the Market**

The first of the program functions is to help the underserved markets understand the benefits, to them, of learning to use, and using, telecom products and services. There are two parts to this initiative.

One part is to gather experiences from around the country and world about the ways in which market segments have learned to use telecom products and services to improve their lives. This can be done by collecting existing experience in the form of a three dimensional matrix, or cube. Imagine the horizontal axis as the "place" where the instruction takes place such as: school, library, housing development, park district, or storefront. Think of the vertical axis as representing instructional program content such as: computer literacy, computer aided instruction, office skills, ESL and GED programs, the use of the web and Internet, graphics, and multimedia. And finally, imagine the retreating axis as representing the markets being served such as: 0-3 year olds, pre-schoolers, elementary school students, high school students, community college students, school-to-work transitions, welfare-to-work programs, job transitions, immigrants, illiterates, the homeless, and handicapped groups. The goal of this exercise is to gather, organize and explain the experiences of others in using advanced telecom products and services so that "everyone" in Illinois can understand that someone very much like them has invested time in developing valuable telecommunication capacities and skills.

The second part involves the creation of communication pieces so that the benefits of advanced telecom skills can be made relevant and interesting to the intended audiences. This will involve, for example, print and electronic media, cable, the briefing of community based organizations, forums, billboards, public service announcements, editorials, a bookmobile-like "cyber bus," web sites, email and listservs. The goal is to "get out the word" in the most efficient, professional and cost-effective manner.

### Funding Public Technology Initiatives

The objective here is to develop public technology initiatives that work, are replicable, and are cost-effective. There are two models that should be used to develop this initiative. The first is the Department of Commerce TIIAP program which has been in existence for more than five years. It has funded nearly 50 innovative and replicable public technology initiatives a year for the past five years through a program that is well designed, effectively operated, and widely respected. TIIAP has become a model government program. It should be the basis for the public technology initiative portion of the Illinois Community Technology Fund.

The second is the program developed in California as part of the SBC/PacTel merger. This is a program funded at the rate of $5 million a year for 10 years to support public technology initiatives in underserved markets throughout California. One of the important strategies in this program is to use neighborhood-based organizations as vehicles for both communicating and implementing this strategy. The program requires that these organizations identify, represent and communicate with the groups that are the intended beneficiaries of this program. It also requires community involvement, collaboration, and strategies for communicating the "lessons learned" from the funded experiences.

There are other public technology examples in the U.S. and abroad that could be helpful in shaping the details of the final program. There is currently a request to the House Appropriations Subcommittee, chaired by Illinois Congressman John Porter, to fund an effort to gather, organize and review all of the various public technology initiatives that have been funded by government agencies engaged in public technology demonstration programs in the recent past. These experiences should be made available to neighborhood-based organizations in Illinois to guide their efforts in adapting these models to their circumstances.

**Funding Community Technology Centers**

The third program function is funding community technology centers in underserved communities. Ameritech already has a model for such a program in Ohio. This statewide program was initiated in 1995 as part of a rate charge settlement decision. It created multi-year funding for a series of community technology centers around the state. The program has worked well. As part of the recent SBC/Ameritech settlement negotiations in Ohio, SBC agreed to provide additional financing for this program. SBC has been involved in the development of a similar community technology center program in Missouri. These centers are in inner city and disadvantaged markets, and are connected to colleges and other training locations. SBC executives regard them as successful.

While Ameritech and SBC both already have experiences with community technology centers, NLN recommends that these experiences be carefully reviewed, along with the experiences other affiliates in the Community Technology Center Network ("CTCNet") funded by NSF and the 400 computer learning centers created in HUD housing under the HUD Neighborhood Networks program.

There is a great deal of existing knowledge concerning the design, operation and funding of computer learning centers and community technology centers. These experiences should be considered in the final design of the community technology center program to be developed in Illinois.

**Creating a Company to Commercialize Public Technology Initiatives**

In each of the program areas to be developed within the Illinois Community Technology Fund--preparing the market, public technology initiatives, and community technology centers--NLN recommends that analysis begin with the experience of Ameritech and SBC, then extend to other relevant programs outside the SBC/Ameritech area, including in the U.K., Canada, and Singapore. NLN also recommends that there be a comprehensive gathering of existing experience on the benefits of these programs to various market segments, so that everyone has the chance to understand the worth of investing time and money in developing information and communication technology skills.

In the Pacific Telesis merger, SBC/PacTel agreed to create four subsidiary companies to be headquartered in California. NLN proposes that a subsidiary be created in Illinois to gather and commercialize the experiences gained in serving disadvantaged communities in the U.S. and around the world. Both Ameritech and SBC are operating in many countries outside the U.S. Chicago has 23 Sister City relationships with foreign cities. There are significant population concentrations from each of these countries in Chicago and its suburbs. Illinois has been engaged in numerous trade delegation efforts during the Thompson and Edgar administrations. There are very substantial numbers of "disconnected" populations groups throughout the world that could benefit from the market research, products and services that we will be developing in serving the underserved markets of Illinois. There is a business opportunity here. Illinois ought to be the home of the business strategy that recognizes and takes advantage of it.

## VI. NLN'S REVISED ORDER SHOULD BE SUBSTITUTED FOR THE PROPOSED ORDER

For the reasons described above, NLN urges the Hearing Examiners to describe more completely the positions advanced by NLN (now mentioned only at HEPO 10), revise the Commission Analysis and Conclusion sections consistent with these exceptions and NLN's Proposed Substitute Order (HEPO 6-7, 10-12, 41-3, 63-6, 68-73), and--if the merger is to be approved--substitute the following revised Order for that proposed by the Hearing Examiners.

**Substitute Order**

(1-4) unchanged;

(5) the proposed reorganization will adversely affect the ability of Ameritech Illinois to perform its duties under the Public Utilities Act, absent Joint Applicants' full compliance with the conditions set forth in this Order;

(6) Joint Applicants have not complied with the provisions in Section 7-204(b) (1)-(7) and cannot do so unless they comply fully with the conditions set forth in this Order;

(7) in order to provide the Commission with assurances that the proposed reorganization satisfies the requirements of Section 7-204, the Joint Applicants have made 16 voluntary commitments previously set forth; each of the commitments made, is reasonable and necessary such that each will be a condition to our approval, with these modifications

(a) adding to Agreed Condition (4) at the end after "in these areas;" in particular a program will be developed to explain to disadvantaged and underserved markets the benefits and use of the Internet, ADSL, and other advanced and digital telecom services;

(b) adding to Agreed Condition (6) at the end after "in which the investment is made;" a process will be developed to assure that there is fair and equitable access to ADSL and other advanced and digital telecom services, so that currently underserved and disadvantaged communities are not discriminated against or "redlined";

(c) adding to Agreed Condition (14) at the end after "disabilities in Illinois;" and to create programs and a subsidiary responsible for the development and use of advanced telecom services for other disadvantaged and underserved markets";

(d) adding to Agreed Condition (16) at the end after "telecommunications in Illinois;" "best practices" shall include the identification and explanation of ways in which disadvantaged and underserved markets can be served through education and awareness raising programs, public technology initiatives, and community technology centers";

(e) substituting for Additional Condition (19) language stating that the compliance with a Section 271-like checklist as a condition of the merger is the only effective way to assure that there will be sufficient competition in the state to generate the best combination of service quality and cost; in the short term, there will be need to be sufficient "discounts" and technical assistance to assure a sufficient number of CLECs will be attracted to provide alternative telecom service options to residential and disadvantaged and underserved markets;

(8) the provisions of Section 7-204(c) are being applied to the reorganization, so that 100% of the net merger-related savings allocable to Illinois will be allocated to the merged company's customers; such savings are estimated at $100 million a year from July 1999 through December 2004, or $550 million; half of this amount will be allocated to the merged company's customers in the form of rate credits, and half will be used to fund programs to be developed by the Illinois Technology fund described in paragraph 9;

(9) additional conditions are necessary to protect the public utility and its customers, consistent with Sections 7-204, 7-102, 13-102 and 103, and 13-301 and 301.1 of the Public Utilities Act:

(a) Ameritech Illinois shall comply to the Commission's satisfaction with the Telecommunications Act of 1996 Section 271 competition checklist, 47 U.S.C. § 271;

(b) a community-controlled, non-profit Illinois Community Technology Fund shall be created and funded through 50% of the agreed upon estimated savings, and penalties created for non-compliance with Commission conditions, that would be responsible for: 1) educating and informing disadvantaged and underserved markets about the opportunities and benefits of advanced telecom capacities and services; 2) funding a competitive program for public technology initiatives that are replicable and cost-effective; 3) funding a competitive program to support the development and operation of community technology centers; and 4) gathering, analyzing, disseminating and commercializing the "best practices" of public technology initiatives and community technology centers throughout the country and world;

(c) the four conditions previously set forth (HEPO 72-3); any increased penalties paid under these conditions will be allocated equally between ratepayers and the Illinois Community Technology Fund just described;

(10-11) unchanged.

**Request For Oral Argument**

NLN reiterates its request that it be allowed to participate fully in the oral argument on this merger. NLN has presented testimony, filed opening and reply briefs, provided exceptions to the Hearing Examiners' Proposed Order, and wishes to continue to express its views on this important matter to the Commission: namely, that the proposed merger should not be approved unless it is conditioned on a well-funded comprehensive system of remedies to ameliorate the digital divide in Illinois.

Dated: April 14, 1999

Respectfully submitted,

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